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Doing Family in gleichgeschlechtlichen Lebensgemeinschaften

in:

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Abstract

Same-sex families are a recent legal reality in Europe. Socially and politically, they have been recognized only since 1989. Legal recognition spread over Europe in a two-phase process. At first, a specific and separated status (registered partnerships, civil union, Eingetragene Partnerschaft) has been granted to same-sex families, adding substantially to their social visibility. Subsequently, same-sex families have gained access to the general status of marriage. This second phase closes the phase of specific visibility and brings same-sex families back into the discretion of private life. A European overview of this double process may help our understanding of how homosexuality is socially and politically managed in different regions of Europe. Same-sex families are also a recent socio-demographic reality. Same-sex couples and families emerged in the twentieth and twenty first century. This paper will present socio-demographic facts on European same-sex families. It will also hazard some hypotheses on how these families seem to develop and how they are managed in Europe.

Zusammenfassung

Der Rechtsstatus von Familien mit einem gleichgeschlechtlichen Elternpaar erfährt in Europa zunehmend Akzeptanz. In sozialer und politischer Hinsicht werden sie erst seit 1989 anerkannt. Die rechtliche Anerkennung vollzog sich in Europa in zwei Phasen. Zunächst als spezieller Status, der nur gleichgeschlechtlichen Paaren vorbehalten war, was zu einem enormen Zuwachs an sozialer Wahrnehmung geführt hat. Im Anschluss daran erfolgte die Öffnung der Ehe. Diese zweite Phase stellt ein Ende der besonderen Sichtbarkeit und Wahrnehmbarkeit gleichgeschlechtlicher Paare dar und erlaubt es ihnen, ihre Beziehung in der Diskretion des Privaten zu leben. Gleichgeschlechtliche Familien bilden heute eine bedeutsame soziale Realität. Ein Überblick dieser Prozessphasen im europäischen Vergleich soll zeigen, wie mit Homosexualität in verschiedenen Regionen Europas sozial und politisch umgegangen wird. Dieser Beitrag präsentiert soziodemographische Fakten zu gleichgeschlechtlichen Familienkonstellationen im europäischen Kontext und wird einige Hypothesen hinsichtlich der Entwicklung und des Umgangs mit diesen Familienformen aufstellen.

This presentation refers to recent research for the French ministry of Labor and Social Cohesion on same-sex unions in Europe (Banens, 2010, 2011; Banens et al., 2008, 2013). It analyzes how Europe regulates and integrates same-sex couples and homosexuality in general from two types of evidence: legal data on the new statutes for same-sex unions

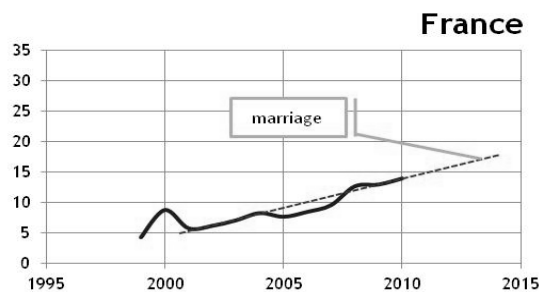
and demographic data on same-sex couples and the use they make of the new statutes. Please note I use the word “union” as a general category for the registration of a civil partnership, a civil union, a same-sex marriage, a same-sex Pacs, etc.

The registration of same-sex unions started in 1989, in Denmark. A few years later, the Danish sociologist Henning Bech (1997) noted what he thought to be low registration frequencies (769 unions registered between October 1st 1989 and the end of 1990). He argued that Danish lesbian, gay, bisexual and transsexual (LGBT) people had been fighting for the right to register their partnership but that they were not interested in using this right. Michael Warner (1999) picked up this argument and turned it into a political stance against same-sex unions. Soon after, William Eskridge and Darren Spedale (2006) came to study same-sex unions in Europe. They took the opposite stance arguing that couples did register as soon as this was of interest for them. And so did Lee Badgett (2009). Hundreds of scholars joined each side of the debate and discussed normalization, heteronormativity, gay citizenship and, more generally, the social organization of homosexuality through gay marriage.

My work is not for neither against same-sex unions. It is on the social organization of homosexuality and on European diversity in doing so.

Let’s start with the recent news: France celebrated its first same-sex marriage one month ago. Many people, including the media, wonder if there will be a same-sex marriage boom in France, if same-sex couples will use marriage more than they used the Pacs (Pacte civil de solidarité) until now. So let’s see French same-sex Pacs frequencies until now.

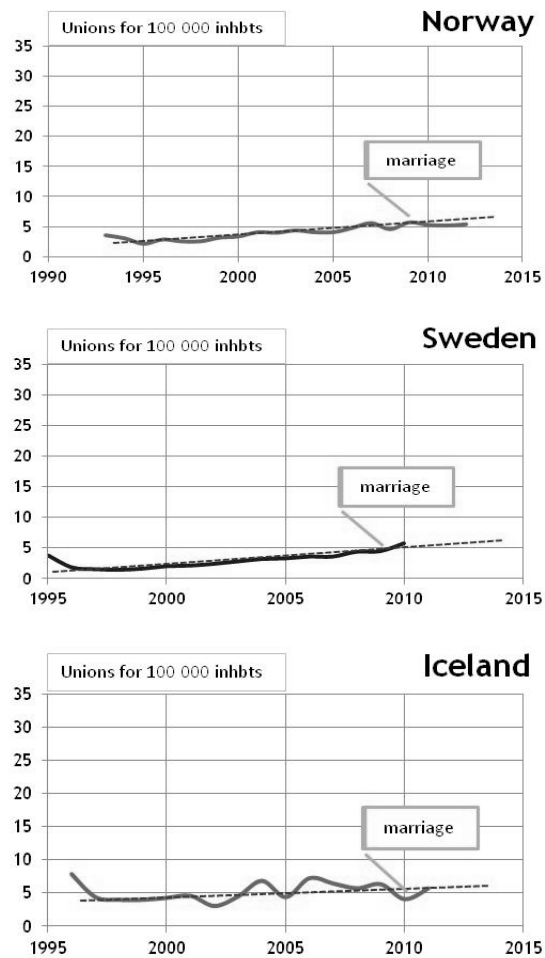
Figure 1. Same-sex union rates for 100 000 inhabitants, France 1999-2015.



Source: INED – Ministère de la Justice. Rates and trend calculated by author.

Same-sex Pacs started at the end of 1999. Frequencies began at about 5 for 100 000 inhabitants and increased steadily until 14 in 2010, last year of published data. Extrapolation shows that it could be about 16 today. Will this trend change? Will it get steeper? What happened in countries that already opened marriage after some years of civil partnership?

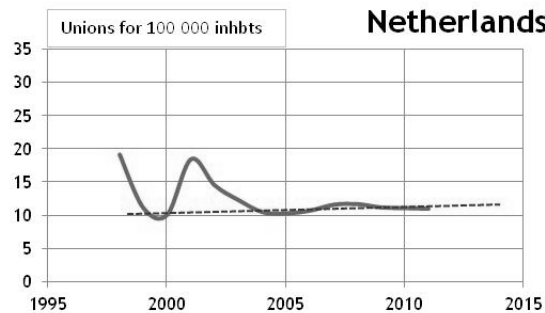
Figure 2. Same-sex union rates for 100 000 inhabitants, Norway, Sweden, Iceland.



Source: National Offices for Statistics. Rates and trends calculated by author.

Norway registers same-sex marriages since January 2009. Nothing really happened in terms of frequency rates. Sweden followed in May 2009. Swedish frequencies did not really change either. Iceland was the third Scandinavian country to open marriage in June 2011. Again, frequencies seem to continue as before. Opening up marriage did not change significantly same-sex union frequencies in Scandinavia. Please note also that Scandinavian frequencies reach maximums of about 5 for 100 000 inhabitants so far, which is about three times lower than current French rates. We will come back to this later.

Figure 3. Same-sex union rates for 100 000 inhabitants, the Netherlands 1998-2015.



Source: CBS. Rates and trend calculated by author.

One country did experience a same-sex marriage boom after opening marriage: the Netherlands. The boom did not last though. After two years, frequencies fell back to where they were before opening marriage.

So the first conclusion of this survey is that same-sex union frequencies are not determined by the symbolic statute of the union, in none of the European countries observed until now. They are not determined either by the rights and duties that go with the statute, because French *Pacs* is known to be much “lighter” than the Scandinavian partnerships and Dutch marriage.

The second conclusion is that all countries show stable frequency rates. So there seem to be national determinants that produce and reproduce same-sex union behavior.

The third conclusion, most interestingly, is that there is extreme divergence in same-sex union behavior. Some countries show three times higher frequencies than others. So, national determinants seem not only to be stable inside of each country but also very diverse between countries.

My research is on this stable diversity. It tries to define the determinants and to determine what it tells us about the social organization of homosexuality.

The first evidence is legal. It comes from the way Western Europe legally recognized same-sex unions. Since 1989, more than twenty European countries have introduced a legal statute for same-sex couples, but it happened through two distinct waves.

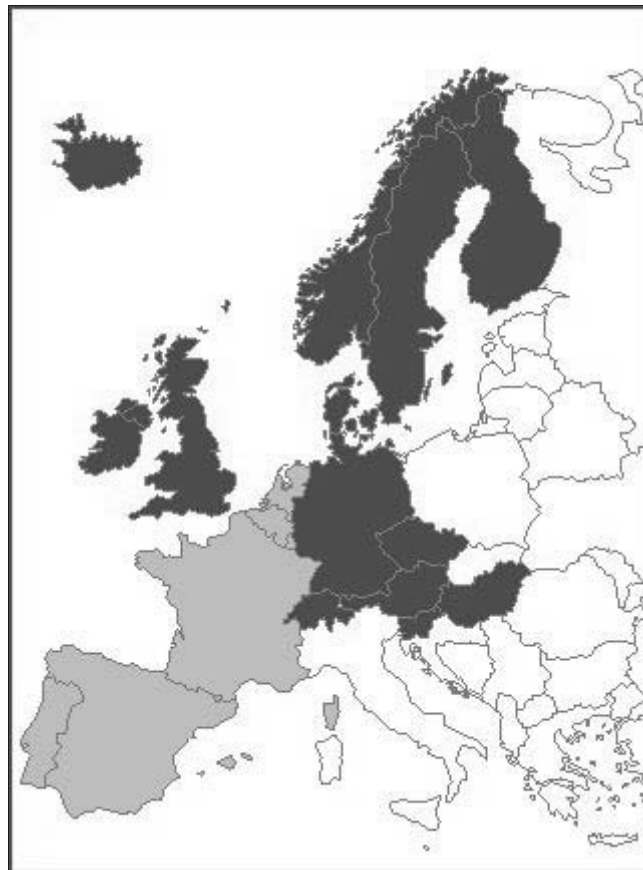
The first wave created specific statutes, known as “registered partnership”, “civil union”, etc. These statutes were open, and they still are, to same-sex couples only. They are based on separateness: there is marriage for heterosexual unions, and there is civil partnership for same-sex unions. Separateness permits unequal rights: unequal adoption rights, parenting rights, wedding ceremony rights, fiscal and social rights. But even where rights are equal, they remain separate: gay rights for gay citizens, straight rights for straight citizens. Separate rights rely on visibility, and create visibility. This first, differentialist wave started in the Scandinavian countries, came down to Germany, the Czech Republic and Switzerland before reaching the UK, Austria, Hungary and Slovenia.

Nine years after the beginning of the differentialist wave started the universalist wave. It created universal statutes, open to both same-sex and opposite-sex families. The Dutch civil partnership was the first universal statute to be adopted in 1998. The Belgian cohabi-

tation contract was the second. The French Pacts the third. A few years later, the Netherlands, Belgium, Spain, Portugal, Norway, Sweden, Iceland, Denmark and France opened marriage to same-sex couples. In these countries, marriage came to fall into the category of “universal statutes”. Universal statutes don’t subdivide society into different groups. They don’t create specific gay and lesbian rights. They don’t create visibility.

Please note the universalist wave did not start in France but in the Netherlands. Belgium, Spain and the other countries followed the Netherlands, not France. Please note also that the differentialist wave did not start in the UK but in Scandinavia and that it reached Germany and Central Europe before the UK. So, the legal recognition of same-sex unions is about universalism opposing differentialism, but it is not about France opposing the UK.

Figure 4. Differentialist (red) and universalist (blue) legal recognition of same-sex statutes as they were at introduction.



Source: See Banens, 2010.

As far as homosexuality is concerned, the distinction between legal universalism and differentialism has a long history. Universalist countries decriminalized consenting adult homosexuality at the very beginning of the 19th century. Differentialist countries decriminalized more than one century later, often quite recently. Universalist countries never re-criminalized homosexuality as is often thought. Most of them maintained discriminating ages of consent, but that was the case all over Europe. Discrimination persisted after decriminalization and has been abolished long time after, sometimes not before the twenty first century like in England, Hungary and Portugal. But decriminalization, of course, was the main step and this step occurred in Europe through two waves, distant by one and a half century. Surprisingly, the recent recognition of same-sex unions replayed exactly the same two waves. This persisting dividing line inside of Europe shows persisting cultural diversity.

There is an evident legal reason: the universalist countries adopted the Napoleonic Code, the differentialist countries did not. The Napoleonic Code declared sexuality a private affair, just as religion. At the time, no legislator thought of homosexuals as a sexual minority. It was a sexual practice. Universalist decriminalization, then, was based on the principle of freedom of sexuality exactly like the separation of state and church was based on the principle of freedom of religion and not on secularization. Both spheres got free in private life, ignored by the State, invisible.

When differentialist Europe decriminalized homosexuality, it was not on the principle of freedom but on the principle of equality. Northern European legislators saw homosexuality as a sexual minority, and separateness had been “proven”. This took about a century. Northern European legislators had to be convinced that homosexuals can’t be healed and that heterosexuals can’t get contaminated. In other words, that separateness is total. Only then, they accepted to decriminalize homosexuality on the principle of equality between social groups.

Invisibility and State ignorance at one side, separateness and specific recognition at the other. Sexual freedom at one side, sexual equality at the other. And it happened twice: once for decriminalizing homosexuality, once for recognizing same-sex unions. This shows strong continuity in the social and political management of sexuality.

The distinction between universalist and differentialist Europe has been noticed and analyzed by many scholars and at all levels: in ideology (McCaffrey, 2005; Fassin, 2001), in grass roots politics (Fillieule and Duyvendak, 1999), and in personal intimacy (Provencher, 2007). It remains an important and meaningful distinction inside of Europe. But we should keep in mind that:

- 1/ universalism and differentialism are present in all European countries. Many national debates illustrate this. “Outrage” is a universalist English LGBT movement. Irène Théry is an influential differentialist French sociologist. Sweden and Hungary have been preparing universalist statutes before turning them into separate partnerships. Etc. Both elements seem present everywhere but the mixture of these elements turns out to be national and rather persisting over time.
- 2/ universalism is not limited to France. France played a leading role in the universalist decriminalization of homosexuality. It did not in the creation of a universalist partnership.

- 3/ at the opposite of universalism, there seems to be not one differentialism but two. One is community-based, identity-based and liberal, producing high visibility and relatively high same-sex union frequencies. It is bottom-up differentialism, dominant in the UK and, less so, in Switzerland. The other is State-organized, vertical top-down differentialism, producing little visibility and low same-sex union frequencies. It is dominant in the Scandinavian and Germanic countries.

Figure 5. Same-sex union frequencies for 100 000 inhabitants in 2011 (2010 if country is marked with *). Differentialist (red) and universalist (blue) countries.

<u>Rates for 100 000 inhabitants</u>	
France*	14.0
Universalist Europe*	11.2
Netherlands	11.0
United Kingdom	10.9
Belgium	9.8
Switzerland	8.5
Spain	7.5
Separatist Europe*	6.2
Denmark	6.2
Finland	6.2
Sweden*	5.8
Iceland	5.7
Norway	5.2
Austria	5.1
Germany*	3.9
Portugal	3.1
Czech Republic*	1.8
Hungary*	0.8
Slovenia	0.7

Source: See Banens, 2010.

Figure 5 shows same-sex union frequencies for 2011 (2010 if country is marked by *). Universalist countries show much higher frequencies than differentialist countries: 11,2 against 6,4 same-sex unions for 100 000 inhabitants. My hypothesis is that universal statutes are fit to integrate homosexuality into mainstream family life. They do not create

specific visibility but allow same-sex couples to reintegrate their family of origin and social environment. Differentialist statutes don't. In community-based countries they allow same-sex couples to integrate the community. This explains rather high union frequencies in the UK and in Switzerland. But in the State-dominated countries, there is little motivation to integrate mainstream family life and not more motivation to integrate the LGBT community. Union rates are particularly low in Scandinavian and Germanic countries.

So, the Western European management of homosexuality shows three blocks rather than two. A block of universalist integration of homosexuality in mainstream family life goes with low community visibility but high same-sex union frequencies. A second block of community-based differentialist homosexual minority building goes with high community visibility and rather high same-sex union frequencies. A third block of State-dominated differentialist individualism goes with low community visibility and low same-sex union frequencies. The historical persistence of these blocks points to long-term structural differences that we may call anthropological.

Yet, different anthropological managements of homosexuality respond to social constructions of homosexuality that seem rather comparable all over Western Europe. Evidence comes from the rise of same-sex couples. Exact numbers of same-sex couples do not exist in any European country. Demographic data is rare and not always reliable. Figure 6 shows estimates from the three major West European countries. For the sake of comparison, the numbers have been calculated for 100 000 inhabitants.

Figure 6. Estimated numbers of same-sex couples for 100 000 inhabitants.

Country	Source	Year	S-S Families for 100 000 inhbt
France	Census	2008	95
France	Family Survey	2011	130
Germany	Mikrozensus	2010	80
UK	Labor Force Survey	2012	220

Source: See Banens et al., 2013.

The German 2010 Mikrozensus estimates at 80 the number of same-sex families for 100 000 inhabitants. That is close to our estimates on the base of the French 2008 Census (95 for 100 000), but a recent estimate on the base of a 2011 Family survey came up with considerably higher numbers: 130 for 100 000. The British 2012 Labor Force Survey's estimate is much higher again: 220 for 100 000. But the main reason for this diversity of estimates may be not demographic reality but data sources and estimate technology. These are so different that we better avoid comparing numbers.

Yet, we may compare growth rates. Unlike estimated numbers, estimated growth rates are independent of data sources and data treatment as long as sources and treatments remain the same. The German Mikrozensus may serve as an example. It produces estimates of same-sex family numbers every year since 1996. Data collection remained more or less the same from 1996 until now, except for a minor change in 2006. Each year, numbers may have been under- or overestimated due to some data collection problems, but the overall growth will hardly be biased.

In the same way, British Labor Force Surveys produce annual estimates. Data collection and treatment are totally different from those used in the German Mikrozensus. Total

numbers should not be compared, but growth rates can and they bring important information.

Figure 7. Annual growth rates of same-sex couple estimates.

Country	Source	Period	Annual growth rate (%)
France	Census	2006-2010	6,4
Germany	Mikrozensus	1996-2008	5,1
UK	Labor Force Survey	2006-2012	8,9

Source: See Banens et al., 2013.

Growth rates turn out to be much closer than crude numbers. Moreover, they turn out to be very high in the three main West European countries. Estimated rates lead to 100 % increase every 8 (UK) to 14 (GER) years. This means that same-sex families may have doubled since the beginning of the century, they may have been multiplied by 10 since the start of the Aids epidemic, by 20 since 1970.

No one really knows when the growth started. Some may even say it doesn't exist, it could just reflect increasing visibility. Now, this seems rather unlikely (Banens and Le Penven, 2013). Current growth rates for same-sex families probably reflect reality. Demographically, this isn't unknown. Single parent families and stepfamilies have known similar growths over the last decades, starting from almost nothing. So, in terms of demographics, this is just one evolution among others. But for the social construction of homosexuality, it is major information. The first age of homosexuality, from the 19th century until the 1960s, saw the emergence of the homosexual individual out of a loosely structured magma of homosexual practices. I once called this process the individualization of homosexuality (Banens, 1981). The second age, from the 1960s on, sees the emergence of the homosexual family (couple with or without children). We could call this process the familiarization of homosexuality. Familiarization in both meanings: homosexuality tends to get organized in stable, cohabiting couples and at the same time it becomes a familiar social reality. This seems to be the major social fact, the major trend of contemporary homosexuality, and the major engine behind the legal recognition of same-sex unions all over Europe.

References

- Banens, Maks (1981): *De Homo-aversie. Een analyse van de maatschappelijke onderdrukking van de homoseksualiteit*. Groningen: HUIG.
- Banens, Maks (2010): Mariage et partenariat de même sexe en Europe. Vingt ans d'expérience. In: *Politiques sociales et familiales*, 99, pp. 73-84.
- Banens, Maks (2011): La reconnaissance légale du couple de même sexe en Europe. In: *ex æquo*, 23, pp. 113-129.
- Banens, Maks/Mendès-Leite, Rommel (2008): *Nouvelles visibilité – Nouvelles discriminations? Rapport sur la reconnaissance légale des couples de même sexe et de l'homoparentalité dans cinq pays de l'Union européenne, Rapport du Ministère de l'Emploi, de la Cohésion sociale et du Logement et du Ministère de la Santé et des Solidarités*.

- Banens, Maks/Le Penven Eric (2013): *Le couple de même sexe selon le recensement rénové, France 2008*. Lyon: Centre Max Weber – CNRS (Working Paper).
- Bech, Henning (1997): *When men meet*. Chicago: University of Chicago Press (first edition: 1987).
- Badgett, Lee (2009): *When gay people get married: What happens when societies legalize same-sex marriage*. New York: NYU Press.
- Eskridge, William/Spedale, Darren (2006): *Gay marriage: for better or for worse. What we've learnt from evidence*. Oxford: Oxford University Press.
- Fassin, Eric (2001): Same sex, different politics: 'Gay Marriage' debates in France and the United States. In: *Public Culture*, 13, pp. 215-232.
- Fillieule, Olivier/Duyvendak, Jan Willem (1999): Gay and lesbian activism in France: Between integration and community-oriented movements. In: Adam, Barry/Duyvendak Jan Willem/Krouwel André (Eds): *The global emergence of gay and lesbian politics: national imprints of a worldwide movement*. Philadelphia: Temple University Press.
- McCaffrey, Enda (2005): *The gay republic: Sexuality, citizenship and subversion in France*. Aldershot: Ashgate.
- Mottier, Véronique (2012): Etat et contrôle de la sexualité reproductive: l'exemple des politiques eugénistes dans les démocraties libérales (Suisse, Suède et Royaume-Uni). In: *Politique et Sociétés*, 31, pp. 31-50.
- Mucciaroni, Gary/Killian, Mary Lou (2004): Immutability, science and legislative debate over gay, lesbian and bisexual rights. In: *Journal of Homosexuality*, 47, 1, pp. 53-77.
- Provencher, Denis (2007): *Queer French: Globalization, language, and sexual citizenship in France*. Aldershot: Ashgate.
- Warner, Michael (1999): *The trouble with normal*. New York: The Free Press.